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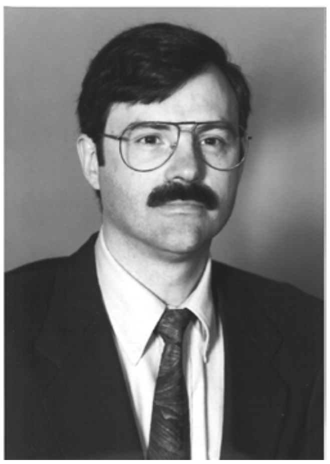

Thomas L. Welch
Chairman
Maine Public Utilities Commission

Thomas L. Welch was appointed Chairman of the Maine Public Utilities Commission in May of 1993. Chairman Welch's term expires March 2005. Prior to joining the Commission, Tom was Chief Deputy Attorney General in the Pennsylvania Office of Attorney General, was a General Attorney for Bell Atlantic and Bell of Pennsylvania, and practiced law in San Francisco. Tom has also been Assistant Professor of Law at Villanova University School of Law and Adjunct Professor of Law at Dickinson School of Law.

Tom graduated from Stanford University in 1972 and Harvard Law School in 1975.

There is a great deal of skepticism about the viability of retail competition. How would you characterize Maine's experience?
We are generally having a good experience, although there are a few issues we are still fine-tuning. We have a number of competitive suppliers active in our retail market, and in the spring reached migration rates of nearly 50 percent of total Maine load. We have dropped some since then, due to a drop in standard offer prices, which were set, fortunately or

unfortunately depending on your perspective, at a low point in the market. We still have one-third of our load taking service directly from competitive providers.

Medium and large commercial and industrial customers make up virtually all of the load in the competitive market. The penetration rates in those classes are quite high, and have approached or exceeded 90 percent for large consumers at some points at our major utilities. We expect, however, that as more of the medium and large load migrates to the competitive market, suppliers will begin focusing on smaller business consumers.

Our system also avoids the creation of new stranded costs, because we simply accept the best price available for our standard offer supply, and charge customers that price, instead of setting an artificially-low standard offer price to ensure customer satisfaction with restructuring—creating more stranded costs in the process—as some states have done. The supplier carries all the price and load risk during the standard offer period, which can vary from one year (for larger customers) to three years (our current contract for small customers).

What led to Maine's success in developing the retail market?

We trusted the market for default service, or "standard offer" as it's known in Maine. This is the service—the *only* service—for Maine consumers who are not buying directly from a competitive provider. We bid out our standard offer, and allow the market to determine prices for that service. That has made for a learning curve for some customers, some of whom last spring found themselves holding competitive supply contracts at prices higher than the latest standard offer prices, but by and large, relying on the market for our standard offer has worked well.

We have also been fortunate in that the New England wholesale market, upon which Maine depends entirely for supply and price, has been reasonably robust and has not exhibited some of the flaws that some other markets (most notably California) have suffered. Perhaps in anticipation of a successful market in New England, we have seen some significant additional capacity built, so at the moment our supply seems sufficient to support a healthy level of competition.

Another important factor is that we required that our utilities divest their generating assets, and put other limitations in place to restrict their entry into the competitive market. We therefore have no "incumbents" that are major players in the competitive market. This has made for good relationships, and smooth transactions, between the distribution utilities and competitive providers.

How does Maine's standard offer work?

Maine's standard offer is provided at retail, meaning that the winning standard offer bidder is obligated to provide the entire electricity product (including energy, capacity, and ancillary products) for all of the residual load for the specified customer class. We deliberately avoided a pattern seen in some other states, where standard offer is procured at wholesale by the utilities themselves, or by affiliates, and where default prices are set administratively. In

Maine, consumers pay market-based rates, whether they buy directly from suppliers or take standard offer service.

We have recently finished a review of our standard offer for the Maine Legislature, and have concluded that, while by and large it is working well, there are some changes worth considering. In market sectors that enjoy healthy levels of competition, currently our medium and large commercial and industrial sectors, standard offer should be a "last resort" or contingency service. It should be designed to encourage continued migration to the retail market, and not be just another supply option. For those customers, we will consider steps to encourage even more participation in the bilateral market: for example, we may substantially shorten the contract period for the standard offer, to put standard offer customers more directly at risk for price volatility.

In the residential and small commercial market sector, on the other hand, where significant retail competition has not yet developed, in Maine or elsewhere, we are recommending to the Legislature that we continue to administer standard offer using the same basic approach we are currently using. This will allow us to continue to capture competitive market benefits for small consumers.

You have had some price volatility. How has the public responded?

Our second year standard offer prices for medium and large customers, reflecting higher wholesale prices, were significantly higher than in the first year. We moderated the impact slightly—using delivery rates—by tapping into some of the proceeds from the sale of generation assets. We did not, however, change the standard offer rates themselves, leaving the electricity supply market "pure" in that administrative changes were not made to make standard offer more attractive, either on its own or vis-à-vis competitive options.

We found that the public process that led to our restructuring legislation led to good understanding and support, so there was no over-reaction to the temporary increase, and we have seen no legislative efforts thus far to change the law to any significant degree.

Are you concerned with the lack of activity on the residential side?

To a degree, yes. Ultimately, we would like to see robust competition in all customer sectors. We are not surprised, however, by the very slow migration of smaller customers. First, residential and small business consumers are already enjoying the benefits of wholesale competition through the standard offer, which is market based. Second, acquisition costs for smaller consumers are higher, so suppliers are first focusing on larger, more lucrative consumers.

Our experience with electric competition so far is not unlike the early years of telephone competition. Competition, especially for smaller consumers, takes time to develop. Some say it took 15 years for the telecom market to become robust, that until then, many smaller consumers remained with AT&T. I hope the change does not take that long, but regulators are notoriously poor predictors of the future, so I am hesitant to guess when we will see more activity.

We have some recent indications that a niche market for green power may emerge soon in Maine, and it will be interesting to see whether the premium required by the suppliers of a green product will be small enough to stimulate activity in that area. We have thus far avoided imposing "adders" to the standard offer prices to stimulate the market artificially. In our view such adders increase consumer costs without commensurate benefits.

What's your overall assessment?

Generally very positive. Our local distribution or delivery rates are down in "real terms," and we continue to reduce stranded costs because we are paying off the old ones and not creating new ones. We also have fairly strong awareness in the business community of the opportunities in the competitive market, and many of them are taking advantage of it.

Where to from here?

We are continuing to work to improve our wholesale markets, and we will continue to refine our standard offer as the market develops. Beyond that, we will try to share our experience as broadly as possible, since we think that we will be better off in the long run if all our neighboring markets are robust and healthy, and we believe that there are at least some elements of Maine's approach that may be worth emulating elsewhere.